December 15, 2022

Subject: Cuddy’s comments on Lemmon Gulch Draft Environmental Assessment

To:Ochoco NF Supervisor, Lookout Mountain District Ranger

Purpose and Need (PN) and Preferred Alternative (PA)

The Proposed Action (Alt 2) was developed in a large part to address the need for downhill mountain biking, and it proposes 40 miles of trails to address this need, however, the Preferred Alternative (Alt 6), only proposes 18 miles (45% of Alternative 2) of downhill trails to meet the Need, the **fewest** of all the action alternatives. The Environmental Consequence section of the EA provides no supporting evidence to support this amount of trail reduction especially since it falls far short of meeting the stated PN.

Key Issues and Alternatives

To begin with, the Proposed Action identified in the FS scoping process, has already been modified in the EA (Alt 2) to address a number of the livestock concerns (EA page 12). The EA provides an extremely speculative analysis of potential impacts for all of the Action Alternatives. The Action Alternatives, including Alternative 2, include a robust suite of resource protection measures (pages 10-12) that would minimize any possible negative impacts on the environment. These include the best management practices detailed in Appendix B, road and trail closure from December 1 to May 1 to protect wildlife winter range, and the phased implementation, monitoring, and adaptive management plan described in in Appendix C. These measures thoroughly address all resource concerns; therefore, it is not necessary to select a reduced mileage alternative (i.e., Alternatives 3, 4, 5, or 6) in order to further minimize impacts. In fact, the EA has not demonstrated any environment concerns that would even necessitate the development of alternatives to Alternative 2, except for the No Action Alternative

The range of Alternatives considered is not only arbitrary (no environmental reasons for their development) but does not provide a true range, i.e., all alternatives to Alternative 2, provide, at most, 56% of the total trails and only 51% of the downhill trails, as does Alternative 2, thus falling far short of a legitimate range of alternatives, especially in light of the professed lack of environmental effects, the need to use surrogates in place of actually environmental effects, and even the admission that some of the surrogates used are counterproductive and provide erroneous data for comparing alternatives and estimating environmental effects (EA page75-76 )!

Environmental Consequences

Almost all the environmental effects measures used for both wildlife and range, are at a scale that renders them meaningless in terms of disclosing **actual** environmental impacts. As your own Office of General Council lawyers have argued in lawsuits brought against other ONF NEPA decisions, ‘yes, it is true, that at the tip of the shovel there is obviously going to be impacts but at that scale it is meaningless to the resource being analyzed’. This obviously holds true for both the ‘wide-ranging’ wildlife species and domestic livestock management being considered as the key issues in this analysis to be resolved, to one degree or another, by developing Alternatives to the PA . Using the entire project area (3,200ac) and the scope of the proposed activities (19 acres of actual ground disturbance) out of 51,000 acres in the Allotment or over 50,000 acres in the watershed as the basis to describe the effects to wide ranging wildlife species and livestock management is analogous to considering the impacts at the “tip of the shovel.”

As stated above, for range, as well with the wildlife analysis, the scale of the actual project area as it relates to the need of the wildlife species, or livestock management, is so small as to render the effects unmeasurable for all practical purposes. For instance, in the Mill Creek Allotment there are 4 water developments in the project area of a total of 19 in the pasture or 60 in the allotment as a whole. In addition, even though you have not discovered any research or evidence that mountain bikes may impact the use of a water development, you arbitrarily develop a trail-to-water development distance criteria (buffer), and then apply it to 4 out of the 60 water developments. The geographic scale of the project area and the scope of the actions in Alternative 2 are so small in relation to the resource as to render any potential environmental effects meaningless, and of little to no value in determining the value of one alternative over another. You could fence cows out of the entire project area and not have a reduction in permitted AUMs or an increase in resource damage from cows. The same holds true for ‘wide ranging’ wildlife (anything with legs or wings at this scale), it is meaningless at the scale of the project area and the scope of the activities being proposed, so why even bother trying to measure it? For wildlife, the trails and roads would be closed to protect winter habitat and the project area is not important summer habitat (as required by the purpose and need), so impacts on big game wildlife would be minimal under all of the alternatives. See also the conclusion reached for the Gray Wolf on page 45 of the EA and what it states about wolf prey( i.e., big game).

The EA states that there is potential bee habitat, and it has likely been adversely Impacted, like most bee habitat in the west due to fire exclusion and livestock grazing. However, in the EA, an assumption has been made that 100% of potential habitat is actual hábitat simply for the sake of comparing effects between alternatives. Again, this is not appropriate for the purpose of disclosing environmental consequences.

The EA, page 76, suggest that the trails and trail use may “disperse cows to less productive areas”. Conversely, I can imagine a more likely scenario, in which, due to the steep nature of the terrain, the trails would actually facilitate cattle distribution and result in better utilization of hard-to-reach forage areas, thus being a positive influence on range management.

As stated above, most of the effects discussed in the environmental effects section of the EA are not actually environmental effects. As the EA states ,in many cases they are surrogates to be used in lieu of effects, and therefore these surrogates will at least allow one to compare the alternatives to one another. Surrogate comparaisons (i.e. Alt 3 does less than Alt 2 but more than Alt 4 …) may be of some use to distinguish differences between Alternatives, but in no way do they disclose environmental effects. Although effects should render themselves useful for comparing alternatives, they still need to be actual environmental effects. To add insult to injury, for some surrogates (distance to water developments, salt blocks, cattle trailing trails and high use areas) the EA, on pages 75 and 76, states “ these buffers in no way represent how far away these need to be away from a mountain bike trail for livestock to use them … only as a way to represent a range of potential effects …, it is also acknowledged that these buffers are not created equal, due to their location ….., effects would potentially be different but cannot be quantified”. To summarize, your resource specialists could not find any research or documentation of any kind to support that mountain biking negatively impacted livestock management, but then used surrogates in place of actual effects, i.e., distance to water developments, salting areas, cattle trailing trails, and ’high use’ areas, etc. They follow this up by stating that not only are these surrogates completely useless for disclosing effects but that they are also completely useless in comparing Alternatives to one another!

In conclusion, I think your conclusion regarding the effects on the Gray Wolf, sum up what should have been concluded for most of the resource discussed. Page 45 of the EA states “Therefore, due to the scope and scale of the project, the abundance of suitable habitat located in close proximity to proposed activities, the limited duration of potential disturbance and exposure, and the lack of detrimental effects to prey species, any potential effects to wolves dispersing through the project area would be **insignificant and discountable** (emphasis added).

Implementation Plan

All alternatives rely on the Implantation Plan (Appendix C) to address any unforeseen environmental concerns that could arise as the trails are built and used. On page 77 of the EA “yearly monitoring would be used to see if bikes are changing cow utilization.” And on Page 137 of the Implementation Plan, “Grazing Utilization: Are impacts to cattle distribution affecting the ability to meeting grazing standards? Specific utilization standards from the Forest Plan would be used to determine if standards are being met at established monitoring location (DMA) near Lemon Creek. If not, it could signify the cows are not moving in the way the permittee intends them to.” There is only one of these monitoring areas in the project area! What have been the monitoring results to date, why does the FS think that if there are changes to this one area it may single out bikes being the cause. The permittee could easily manipulate the livestock to over utilize this area. The FS needs to drop this requirement from the Alternatives or further develop a comprehensive monitoring strategy for the entire project area and the Lemon Gulch pasture. One option to consider in this potential monitoring strategy would be to include the “high use” areas the permittee is concerned with. We imagine, just by their definition of ‘high use’, that currently these areas do not meet stubble height requirements or other Forest Plan Standards. On a side note, The EA does not disclose the location of salting areas, or ‘high-use’ areas, so how did you estimate how many miles are within x distance to these areas if you don’t know where these areas are? The Forest should identify these areas on the ground and then monitor these sites pre and post project implantation. And since the permittee is required, when cows are on the ground, to be on site 2 days a week until July and one day a week thereafter, you need to require them to submit, in writing, a diary noting the dates they were present in the vicinity of their livestock and their observations (livestock location, utilization levels, bikers chasing livestock, livestock chasing bikers, etc.). We assume the Forest Service could develop a monitoring plan that would help address this non-issue, but the cost would be prohibitive. Since the Forest could not find any information that mountain biking adversely impacted range management or has created safety issues, perhaps these concerns would be better addressed by the FS Research Station, or maybe, they just are not real issues to be concerned with.

In summary, the FS preferred alternative (Alternative 6) is severely lacking in addressing the P&N. Alternative 6, addresses the P&N the least positively of all the action Alternatives. Alternative 2’s design, mitigation measures, BMPs, and the Implementation Plan, eliminate the need to develop alternatives in order to reduce resource impacts. As a result, I ask that you decide to move forward with Alternative 2, or add additional trails to Alternative 6, so it better meets the P&N.

Sincerely,

Paul Cuddy